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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,519	11/09/2000	Satoru Nippa	2185-480P	1737
2292	7590	05/04/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			SHOSHO, CALLIE E	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/708,519	Applicant(s) NIPPA, SATORU	
	Examiner Callie E. Shosho	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (U.S. 4,491,553).

The rejection is adequately set forth in paragraph 9 of the office action mailed 7/29/03 and is incorporated here by reference.

Response to Arguments

3. Applicants' arguments filed 1/29/04 have been fully considered but they are not persuasive.

Previously, the examiner argued that the 1.132 declaration filed 4/15/03 was not persuasive given that the declaration was only based on a preferred embodiment of Yamada et al. as set forth in example 2 but did not address the other method disclosed by Yamada et al. The examiner noted that col.5, lines 59-61 and 65-68 of Yamada et al. disclose that the particulate resin and the filler (AlOH) are mixed in the presence of fibrillatable PTFE whereby the resin and filler agglomerate, i.e. aggregate, and that the agglomerate then forms a resin composite on further mixing. Col.4 of Yamada et al. disclose that in one embodiment the PTFE is in the form

of an aqueous emulsion. Additionally, the examiner noted that in examples 3-5 of Yamada et al. kneading was not required, i.e. "non-kneaded".

Thus, the examiner concluded that given that the declaration did not address this other embodiment of Yamada et al. which did not use kneading but rather agglomerated the resin and filler to form resin composite, it was not clear that the resin composite produced by this other method would also possess Y/X index outside the scope of the present claims.

In response, applicant argues that examples 3-5 of Yamada et al. only utilize 0.2 parts fibrillatable PTFE and that the resin blends of these examples only comprise 0.2% moisture and thus, the resin blends are not emulsions.

However, while it is agreed that examples 3-5 of Yamada et al. use fibrillatable PTFE in amounts, i.e. 0.2 parts, such that the moisture content of the resin blend is 0.2%, it is noted that these are just some preferred embodiments of Yamada et al. A fair reading of the reference as a whole discloses the use of larger amounts of fibrillatable PTFE, i.e. up to 5%, and discloses the use fibrillatable PTFE in the form of an emulsion using larger amounts of water given that the emulsion contains several tens of % to up to 60% PTFE.

When the fibrillatable PTFE is used in larger amounts wherein the emulsion contains larger amounts of water, it would appear that Yamada et al. do disclose resin composite which would inherently possess Y/X index as presently claimed. That is, given that Yamada et al. disclose mixing aqueous resin emulsion with AIOH to form agglomerate or aggregate which then forms resin composite and given that this method is similar to the method used in the present invention given that no kneading is utilized and that the resin composite is formed from

agglomeration of resin and AlOH, it follows that such resin composite would also inherently possess Y/X index as presently claimed.

Applicant argues that the resin blends obtained in examples 3-5 of Yamada et al. are the same or similar to those in example 2. However, given that example 2 refers to kneaded resin composites while examples 3-5 refer to non-kneaded resin blends, it is not clear how the resin blends in examples 3-5 are the same as those in example 2. Given that different methods are used to produce the resin blends it would appear that a resulting difference in resin blends would occur including difference in the dispersion of the AlOH in the resin. Clarification is requested.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

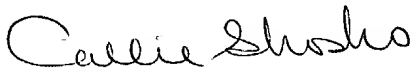
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
5/3/04